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09/765,695	01/18/2001	Frank M. Keese	1108334- 0431	6465

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GUARIELLO, JOHN J

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

1771

DATE MAILED: 06/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	09/765695	Applicant(s)	Kecse
Examiner	John Guarriello	Group Art Unit	1771

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 3/21/2003, 3/5/2003, 5/6/2003.  
 This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

Claim(s) 1-21, 22  
10-19 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) 1-9, 20, 21, 22 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  Interview Summary, PTO-413  
 Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

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**DETAILED ACTION**

***Election/Restriction***

15. The Examiner acknowledges papers # 4-7, the extension of time, and the amendment of 3/21/2003; the revocation of attorney of 3/5/2003; and the notice of acceptance of attorney of 5/6/2003.

The Examiner acknowledges the affirmation of the Restriction to Group I, claims 1-9 and 20 and 21 with traverse. New claim 22 is considered with Group I. Claims 10-19 are withdrawn as to the non-elected claims. The Examiner acknowledges that upon allowance of the elected claims a request for rejoinder will be considered in accordance with M.P.E.P. 821.04 and In re Ochiai, 37 USPQ 2D. 1127 (Fed. Cir. 1995) of method claims 10-19.

19. Since there are no arguments for traverse of the Restriction, the Restriction is made final.

***Claim Rejections - 35 USC § 102***

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16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Effenberger et al. 5,230,937.

Rejection is maintained substantially as in paper # 4 of 11/21/2002.

Applicant's arguments regarding the perfluoropolymer coated on each side of a reinforcement in a balanced stated have been considered but art not persuasive because it is the Examiner's position that since the structure in the instant claims appears to be the same structure as in the prior art of record, Effenberger, therefore the balance feature associated with the structure must be inherently exhibited. Thus, claims still lack novelty.

Effenberger describes a reinforced composite which corresponds to a membrane structure since there is no defined porosity(column 4, lines 7-10).

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with a substrate coated with a fluoropolymer, (see abstract), and overcoated with an elastomer which can be a fluoroelastomer or blend thereof, (see abstract). Effenberger describes the reinforcement material may be glass or fiberglass among other materials possible, (column 4, lines 59-63).

Effenberger describes the fluoropolymer can be PTFE among others, (column 6, lines 48-62; column 8, lines 11-16). Regarding the “balanced state”, it is the Examiner’s position that Effenberger applies the fluoropolymer evenly so as to achieve a balanced state, (column 8, lines 11-54). Effenberger still describes the essential limitations of the claimed invention. Claims lack novelty.

17. Claims 1-6, 21, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Knox et al. 5,217,797.

Rejection is maintained substantially as in paper # 4 of 11/21/2002. Applicant’s arguments regarding a perfluoropolymer coating on each side of the reinforcement material have been considered but are not persuasive

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because column 8, lines 15-68, in Example I of Knox describes what applicant argues.

Knox describes a composite diaphragm which corresponds to a composite membrane since there is no defined porosity, (see abstract). Knox describes the composite to be flexible with a PTFE layer of fibers which can be reinforced by glass (column 3, lines 48-49). Knox describes an elastomeric layer can be attached to the fluoropolymer layer of PTFE, (column 2, lines 62-64). Knox describes the elastomer layer can be one with silicone moieties, (column 4, lines 61-68). Knox describes the flexibility of the composite material, (column 4, lines 40-60). Regarding the “balanced state”, it is the Examiner’s position that Knox applies the fluoropolymer on each side of layer “evenly” so as to achieve a balanced state, (column 3, lines 19-39). Further since the structure in the instant claims appears to be the same structure as in the prior art, Knox, it is the Examiner’s position that the balance feature associated with the structure must be inherently exhibited.

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Thus, Knox describes the essential limitations of the claimed invention.

Claims lack novelty.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made

19. Claims 1, 7-9, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Effenberger et al. 5,230,937 in view of Knox et al. 5,217,797.

Rejection is maintained as in paper # 4 of 11/21/2002. Applicant's arguments have been considered above in paragraph # 16 and # 17, but they are not persuasive for the reasons given above in paragraph # 16 and 17.

Effenberger describes the flexible composite material as above in paragraph # 16. Effenberger differs because it is silent about using silicone rubber.

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Knox describes the flexible composite material as above in paragraph # 17, but further describes silicone moieties (corresponding to silicone rubber),(column 5, lines 42-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the silicone elastomers of Knox in the flexible material of Effenberger for the silicone moieties motivated with the expectation that properties of chemical resistance and flexibility would improve as noted in Knox, (column 1, lines 60-63). Regarding the use as a conveyor belt this would be an obvious modification since the properties of the fluoropolymer composites are similar to chemical liners, escape hoods as described by Effenberger, (column 3, lines 30-34).

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first

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reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

J

John J. Guarriello:gj

Patent Examiner

June 5, 2003



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